

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 468

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2101, IDAHO CODE, TO
2 REVISE POLICY PROVISIONS; AMENDING SECTION 36-2102, IDAHO CODE, TO RE-
3 VISE THE DEFINITION OF "OUTFITTER"; AND AMENDING SECTION 36-2103, IDAHO
4 CODE, TO PROVIDE THAT THE DEFINITIONS OF "OUTFITTER" AND "GUIDE" DO NOT
5 INCLUDE PRIVATE LANDOWNERS AND THEIR EMPLOYEES WHO PROVIDE FACILITIES
6 OR SERVICES UPON THEIR OWN PRIVATELY OWNED PROPERTY, TO REVISE EXCEP-
7 TION VERBIAGE AND TO MAKE TECHNICAL CORRECTIONS.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 36-2101, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 36-2101. DECLARATION OF POLICY. The natural resources of the state of
13 Idaho are an invaluable asset to every community in which they abound. Every
14 year, in rapidly increasing numbers, the inhabitants of the state of Idaho
15 and nonresidents are enjoying the benefits of Idaho's recreational opportu-
16 nities. The tourist trade is of vital importance to the state of Idaho, and
17 the recreational value of Idaho's natural resources is such that the number
18 of persons who are each year participating in their enjoyment is steadily in-
19 creasing. The intent of this legislation is to promote and encourage resi-
20 dents and nonresidents alike to participate in the enjoyment and use of the
21 deserts, mountains, rivers, streams, lakes, reservoirs and other natural
22 resources of Idaho, and the fish and game therein, and to that end to reg-
23 ulate and license those persons who undertake for compensation to provide
24 equipment and personal services to such persons on public land, for the ex-
25 plicit purpose of safeguarding the health, safety, welfare and freedom from
26 injury or danger of such persons, in the exercise of the police power of this
27 state. It is not the intent of this legislation to interfere in any way with
28 the business of livestock operations, private property rights, nor to pre-
29 vent the owner of pack animals from using same to accommodate friends where
30 no consideration is involved for the use thereof, nor is it the intent of
31 this legislation to interfere in any way with the right of the general pub-
32 lic to enjoy the recreational value of Idaho's deserts, mountains, rivers,
33 streams, lakes, reservoirs and other public natural resources when the ser-
34 vices of commercial outfitters and guides are not utilized, nor to interfere
35 with the right of the United States to manage the public lands under its con-
36 trol.

37 SECTION 2. That Section 36-2102, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 36-2102. DEFINITIONS. (a) "Person" includes any individual, firm,
40 partnership, corporation or other organization or any combination thereof.

1 (b) "Outfitter" includes any person who, while engaging in ~~any of the~~
 2 acts enumerated herein ~~in any manner~~: (1) advertises or otherwise holds
 3 himself out to the public for hire; (2) provides facilities and services
 4 for consideration on public land; and (3) maintains, leases, or otherwise
 5 uses equipment or accommodations for compensation for the conduct of outdoor
 6 recreational activities on public land limited to the following: hunting
 7 animals or birds; float or power boating on Idaho rivers and streams; fish-
 8 ing on Idaho lakes, reservoirs, rivers and streams; and hazardous desert or
 9 mountain excursions. Any firm, partnership, corporation or other organ-
 10 ization or combination thereof operating as an outfitter shall designate
 11 one (1) or more individuals as agents who shall, together with the licensed
 12 outfitter, be held responsible for the conduct of the licensed outfitter's
 13 operations and who shall meet all of the qualifications of a licensed outfit-
 14 ter.

15 (c) "Guide" is any natural person who is employed by a licensed outfit-
 16 ter to furnish personal services for the conduct of outdoor recreational ac-
 17 tivities directly related to the conduct of activities for which the employ-
 18 ing outfitter is licensed. Any such person not employed by a licensed out-
 19 fitter who offers or provides facilities or services as specified in subsec-
 20 tion (b) of this section shall be deemed in violation of the provisions of
 21 this chapter, except: (1) any employee of the state of Idaho or the United
 22 States when acting in his official capacity, or (2) any natural person who is
 23 employed by a licensed outfitter solely for the following activities: car-
 24 ing for, grooming or saddling of livestock, cooking, woodcutting, and trans-
 25 porting people, equipment and personal property on public roads shall be ex-
 26 empt from the provisions of this chapter.

27 (d) "Board" means the Idaho outfitters and guides licensing board.

28 (e) "Resident" means a person who has resided in the state of Idaho for a
 29 period of six (6) months next preceding the time of application for license.

30 (f) "Nonresident" means any person not included in subsection (e) of
 31 this section.

32 (g) "License year" means that period of time beginning on the date an
 33 outfitter's or guide's license is issued and ending on the anniversary of the
 34 date of issuance in the following year.

35 (h) "Individual" means any person other than a partnership, corpora-
 36 tion or any other organization or combination thereof.

37 SECTION 3. That Section 36-2103, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 36-2103. EXCEPTIONS. The foregoing definitions of the terms "outfit-
 40 ter" and "guide" ~~will not apply to~~ do not include:

41 (1) Private landowners and their employees who provide facilities or
 42 services, whether for compensation or not, upon their own privately owned
 43 property;

44 (2) A person who furnishes, rents or leases, whether or not for com-
 45 pensation or gain or promise thereof, a pack or saddle horse, or other equip-
 46 ment, to a hunter or a fisherman. A person so furnishing, renting or leasing
 47 a pack or saddle horse or other equipment, shall not be considered an "out-
 48 fitter" or "guide" if, on an incidental basis, they accompany a hunter, not

1 to include extended camping, for the purpose of maintaining the safety and
2 well-being of the livestock used to retrieve harvested big game; or
3 ~~(3) Additionally, the foregoing definition of "outfitter" and "guide"~~
4 ~~shall not apply to m~~Members of a nonprofit organization if the organization
5 meets the following criteria: (i) it is exempt from the payment of federal
6 income taxes under section 501(c)(3) of the Internal Revenue Code; (ii) its
7 purpose is to provide outdoor experiences to young persons under twenty-one
8 (21) years of age and to its leaders; and (iii) it provides outfitting and
9 guiding services to its own bona fide members on a not-for-profit basis. If
10 the members of the nonprofit organization provide outfitting or guiding ser-
11 vices to persons who are not its members and leaders, the provisions of this
12 chapter shall apply to that organization, its members and leaders.